

REMARKS/ARGUMENTS

All amendments to the claims were made without prejudice, and without acquiescence in any of the rejections, or the reasoning underlying any of the rejections. Applicants specifically reserve the right to pursue any deleted subject matter in one or more continuation or divisional applications.

The amendments in the specification are formal in nature and serve to add SEQ ID NOs and to correct obvious typographical errors. Therefore, these amendments do not add new matter.

The foregoing claim amendments are fully supported by the specification as originally filed, for example, on page 4, paragraphs [0011] and [0012], and on page 19, paragraphs [0062] and [0063]. The amendments do not add new matter.

Restriction Requirement

Applicants note the finality of the restriction requirement.

Sequence Identifier Numbers

The specification has been amended to include sequence identifier numbers in the Brief Description the Drawings.

In addition, SEQ ID NO: 35 and SEQ ID NO: 36 corresponding to the nucleic acid and amino acid sequences shown in Figure 8 were not included in the original sequence submission. Therefore, a new sequence listing is submitted herewith to overcome the rejection.

35 U.S.C. §112

Claims 1-5 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly not enabling nor providing adequate written description of the claimed genus.

Claims 1-2 have been canceled.

Claims 3-5, as currently amended, recite a vector comprising a reporter gene operably linked to a regulatory region comprising a nucleotide sequence of SEQ ID NO: 31 or SEQ ID NO: 32.

The components of vectors in general, and cloning and expression vectors in particular, were well known in the art at the earliest priority date of this application. Information about vectors, their components and construction was available from standard textbooks, including, for example, in Maniatis, T., Fritsch, E.F., and Sambrook J., *Molecular Cloning. A Laboratory Manual*, Cold Spring Harbor Laboratory (1982), which is referenced in and incorporated by reference into the present application. (See for example, paragraphs [0044] on page 12 and paragraph [0246] on page 75). In addition, the specification provides a detailed description of vectors and reporter genes, for example, in paragraphs [0061] - [0063], Section V, paragraphs [0149] - [0151], and in Example 7.

In view of the teaching provided in the specification and general knowledge in the art, one skilled in the art would have reasonably accepted that the inventors were in the possession of the invention as claimed at the priority date of the present application. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection based on the lack of adequate written description.

Applicants have also described the invention in such a way as to enable one skilled in the art how to make and use the invention within the full scope of claims pending. As discussed above, components of vectors and reporter genes were well known in the art at the priority date of the present application, and are also described and exemplified in the specification. Accordingly, one skilled in the art at the earliest priority date would have had no difficulty in making the vectors claimed.

Methods of using the claimed vectors are also provided, for example, in paragraphs [0120] - [0161] and Example 9 and 10.

Accordingly, the Examiner is respectfully requested to reconsider and withdraw the present rejection.

35 U.S.C. §102

Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by *Chen et al.* (Gene Bank Accession No. AF107890, Released 2000 Nov. 22, IDS #14).

Claim 1 has been amended to recite a vector comprising a reporter gene operably linked to a regulatory region comprising a nucleotide sequence of SEQ ID NO: 31 or SEQ ID NO: 32.

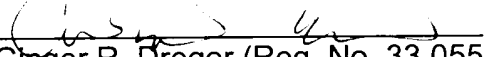
Chen et al. only discloses an isolated nucleic acid molecule comprising SEQ ID NOs: 31 and 32. *Chen et al.* does not disclose or in any way suggest a vector comprising these sequences and a reporter gene operably linked to each other. Therefore, the cited reference does not read on claim 1 and the present rejection should be withdrawn.

All claims pending in this application are believed to be in *prima facie* condition for allowance, and an early action to that effect is respectfully solicited.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. **08-1641 (39754-0721A)**. Please direct any calls in connection with this application to the undersigned at the number provided below.

Respectfully submitted,

Date: July 30, 2003

By: 
Ginger R. Dreger (Reg. No. 33,055)

HELLER EHRMAN WHITE & McAULIFFE LLP

275 Middlefield Road
Menlo Park, California 94025
Telephone: (650) 324-7000
Facsimile: (650) 324-0638

SV 447169 v1
7/24/03 1:07 PM (39754.0721)